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BEFORE THE ARIZONA CORPORATION COM

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JUL 31 2015

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MLB

IN THE MATTER OF THE APPLICATION  
OF SULPHUR SPRINGS VALLEY  
ELECTRIC COOPERATIVE, INC. AN  
ARIZONA NONPROFIT CORPORATION  
FOR (1) APPROVAL OF A NEW NET  
METERING TARIFF; (2) APPROVAL OF  
REVISIONS TO ITS EXISTING NET  
METERING TARIFF; AND (3) PARTIAL  
WAIVER OF THE NET METERING RULES.

DOCKET NO. E-01575A-15-0127

**STAFF'S BRIEF PURSUANT TO  
JULY 10, 2015 PROCEDURAL  
ORDER**

The Utilities Division ("Staff") of the Arizona Corporation Commission ("Commission") hereby files its initial brief in this docket in response to the Procedural Order ("PO") issued by the Administrative Law Judge ("ALJ") on July 10, 2015. Specifically, the ALJ requested that the parties address whether Sulphur Springs Valley Electric Cooperative, Inc.'s ("Sulphur Springs" or "Company" or "SSVEC") request as set forth in its Application must (a question of law) or should (a policy question) be considered in a full rate case.

**I. BACKGROUND.**

On April 14, 2015, SSVEC filed an application (the "Application") seeking approval of a new Net Metering Tariff Schedule NM-2, which is intended to apply to all future net-metered members. The new tariff would lower the rate used to calculate credits for any excess energy produced. SSVEC is also seeking to revise its existing Net Metering Tariff Schedule NM to apply only to members who already have either an installed eligible net metering facility or an accepted Sun Watts Incentive/Interconnection application by the close of business on April 14, 2015. SSVEC also seeks a partial waiver of the Commission's Net Metering Rules.

1 On April 22, 2015, Staff filed a Request for Procedural Order stating that the issues raised in  
2 the Application should be addressed in a rate case and recommending that the Company withdraw its  
3 Application. Absent such a withdrawal, Staff recommended that the parties brief the issue of whether  
4 the matter should be dismissed. Staff further recommended a hearing if the case is not withdrawn or  
5 dismissed.

6 On July 9, 2015, the ALJ conducted a procedural conference and subsequently issued the PO  
7 referenced above. In that order, the ALJ asked the parties to file briefs addressing how this matter  
8 should proceed.

## 9 **II. THE ISSUES.**

10 SSVEC claims that it has experienced a significant increase in the number of customers  
11 installing rooftop solar Photovoltaic ("PV") systems, which has resulted in an "alarming increase" in  
12 unrecovered fixed costs and a shift in the recovery of those fixed costs to members who have not  
13 installed PV.<sup>1</sup> According to SSVEC, its current rate design is inadequate to address the issue of  
14 unrecovered fixed costs. In particular, SSVEC points out that its fixed base monthly charge is only  
15 \$10.25 per month; by contrast, recovery of its actual fixed costs would require a monthly charge of  
16 approximately \$44.37 per month.<sup>2</sup> Ultimately, SSVEC indicates that its unrecovered fixed costs have  
17 increased from \$82,104 in 2010 to an expected \$1.1 million in 2015.<sup>3</sup>

18 To address these issues, the Company proposes to alter its net metering arrangements through  
19 a limited tariff filing. In its Application, the Company asks the Commission to approve a new net  
20 metering tariff for customers who install solar after April 14, 2015. In this new tariff, new solar  
21 customers would be credited for excess energy at the Company's avoided cost, instead of at the retail  
22 rate. The Company acknowledges that its proposal is merely a first step to address these issues.

## 23 **III. ARTICLE XV OF THE ARIZONA CONSTITUTION DOES NOT REQUIRE A FULL** 24 **RATE CASE IN ORDER TO PROCESS THE COMPANY'S APPLICATION.**

25 The Commission is not required, as a matter of law, to consider the Company's Application in  
26 a full rate case proceeding. Arizona law establishes that, subject to certain exceptions, the

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27 <sup>1</sup> App. at 4.

28 <sup>2</sup> *Id.* at 5-6.

<sup>3</sup> *Id.* at 6.

Commission is required to consider the “fair value” of a utility’s rate base whenever it changes rates. The requirement to determine fair value, however, is *not* the same as requiring a full rate case.<sup>4</sup>

**IV. PROCESSING SSVEC’S APPLICATION OUTSIDE A RATE CASE WILL LIMIT THE COMMISSION’S OPTIONS FOR ADDRESSING THE ISSUES RAISED.**

Staff believes that the issues raised by the Company in its Application are best addressed in a rate case, in part because the Application appears to exclude several key issues. While the Company’s requested relief may not require a rate case *per se*, processing the Application outside of a rate case may foreclose the Commission from developing an effective and fair solution to all aspects of the problem, not just those emphasized by the Company. Simply stated, the Company is proposing a short-term, specific, narrow solution to its problem that would be more effectively addressed through a combination of thoroughly evaluated solutions.

As a threshold issue, one would need to determine the magnitude of the alleged fixed cost under recovery and evaluate the merits and efficacy of a full range of options for mitigation (including cost shifting) before arriving at specific relief measure(s). For example, the Commission could increase the monthly minimum, apply a demand charge, introduce new rate schedules, or authorize a lost fixed cost recovery mechanism, among other possibilities. The solutions could address rates for all customers—not just those with rooftop solar—because under-recovery of fixed costs may also be caused by energy efficiency or other measures that reduce kWh sales. Or, after full consideration of the issues, the Commission could elect to retain the current rate design. The important point, however, is that under-recovery of fixed costs are policy and rate design issues; rate design issues are best addressed in rate cases.

The Company’s proposed method of addressing the issues raised in its Application is inconsistent with the broader public interest. Revising the applicable net metering tariff will not *directly* address the *existing* under-recovery of fixed costs; instead, it would merely hold them constant. And, although the Company’s proposed remedy may stem the growth of *additional* under-recoveries of fixed costs, it would do so at the expense of customer choice. By changing its net

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<sup>4</sup> *Id.*

1 metering tariff, the Company would significantly reduce the likelihood for customers to adopt solar  
2 installations.

3 By proposing a narrowly drawn tariff filing to address issues that are broad in scope and  
4 consequence, the Company may potentially foreclose the Commission from developing a  
5 comprehensive solution to the Company's alleged problems. It is Staff's position that these broad  
6 issues should be addressed in a full rate case.

7 **V. CONCLUSION.**

8 For these reasons, Staff recommends that the Commission dismiss SSVEC's Application,  
9 without prejudice to the Company to raise these issues in a subsequent rate case. If the Commission  
10 decides to address the issues raised by the Company in its Application, then Staff recommends that  
11 the Commission schedule an evidentiary hearing.

12 RESPECTFULLY SUBMITTED this 31<sup>st</sup> day of July, 2015.

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